REMARKS

The application has been thoroughly reviewed in light of the March 14, 2006 Office Action. Claims 1, 2, 4, 6-8, 10, 12, 14-17, 20-24, 26-30 and 35 are pending. Claims 1, 14, 17, 30 and 35 are independent. Claims 3, 5, 9, 11, 13, 18, 19, 25 and 31-34 were previously canceled without prejudice and/or disclaimer of subject matter. Claims 1, 17 and 30 have been amended. Each of the issues raised in the outstanding Office Action are addressed below.

Telephone Interview

Applicant wishes to thank the Examiner for the courtesies extended to Applicant's below signed representative during a telephone interview conducted with the Examiner on June 12, 2006. During the discussion, the Examiner and Applicant's representative discussed the outstanding prior art rejections and also discussed the scope of the cited prior art. At the close of the conversation, both parties indicated that some level of understanding on the scope of the prior art and the scope of some of the pending claims was achieved.

Prior Art Rejections

Claims 1, 2, 4, 12, 14-17, 20-21, 27-30 and 35 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. patent no. 5,870,723 (Pare, Jr. et al.). For the following reasons, Applicant respectfully submits that the currently claimed invention is patentable over the prior art.

Claims 1, 17 and 30

The Examiner alleges that Pare, Jr. et al. discloses each and every feature of these claims except that the reference does not disclose:

> "two (2) modes of transaction where one mode is delayed and the other is not,"

The Examiner also alleges that it would have been obvious that such a two mode method of operation:

> "is what is happening when Pare switches between having only one SNM validating packets (no delay) and having several packets of validating packets (delay). (see, e.g., col 48 ln 40-63)."

The Examiner also relied on this same portion of Pare, Jr. et al. in the Office Action of July 25, 2005 to allege teaching/suggestion of Applicant's two-mode operation. Applicant again respectfully disagrees with the Examiner's reliance on Pare, Jr. et al. for disclosing or teaching/suggesting any of the recited features of the claimed invention, and in particular, the two-mode operation. Specifically, Applicant respectfully submits that nothing in Pare, Jr. et al. could be found to disclose, teach or suggest, at least, the two-mode feature as recited in claims 1, 17 and 30. The claimed feature of operating a wireless transaction terminal in one of two modes allows a delay of communication of *any* transaction information with a first server (first mode) or no delay (second mode).

Looking to column 48, lines 40-63:

> "The SNM's secondary function is to inform other DPCs of the updated sequence numbers. Quickly updating sequence numbers at all DPC sites thwarts resubmission attacks wherein a malicious entity monitors packets destined for one DPC site and immediately sends a copy to a different DPC site in the hope of exploiting the transmission delay of sequence number updates from one DPC site to another resulting in both sites accepting the packet as valid, when only the first site should accept the packet.

> The SNMs send update messages to each other whenever they receive a valid sequence number. If an SNM receives an update message for a sequence number that is less than or equal to the sequence number currently stored in its hash table, that SNM logs a sequence number resubmission warning. All resubmission attacks are detected in this manner.
>
> A simpler way to thwart resubmission attacks completely, is to have only one SNM validate packets. Under this scheme, there is no update transmission delay window to exploit with a resubmission attack. Alternately, multiple SNMs can be active at the same time provided none of them handle sequence number validation for the same BIA-equipped device."

Applicant vehemently submits that this portion of Pare, Jr. et al. does not disclose, teach or suggest operating a wireless *transaction terminal* (e.g., a point-of-sale terminal) in a first mode, where during a transaction (that is, a purchase of goods or services), communication of any transaction information (e.g., credit card data) with a first server is delayed (e.g., credit card data is not communicated immediately to a first server after a card swipe) and alternately operating the transaction terminal in a second mode, wherein communication of the transaction information with the first server is not delayed (e.g., credit card data is transmitted immediately after a card swipe). See specification, page 12, lines 3-27.

In Pare, Jr. et al., an SNM, or Sequence Number Module, handles a DUKPT sequence number, for encryption purposes:

> "The BIA uses the DUKPT key management system to select the biometric-PIN block encryption 112-bit DES key from the Future Key Table. This key is then used to encrypt the Biometric-PIN Block using cipher block chaining (CBC). In addition, a response DES key is also generated randomly, and is used by the DPC to encrypt the portions of the response that need to be encrypted."

Pare, Jr. et al., Column 17, lines 28-34. The SNM is part of the DPC (see Fig. 2), which is a remote Date Processing Center for which *retail point-of-sale (POS) terminals communicate with*. A biometric input device (BIA) communicates with the POS terminal via a serial port (see column 10, lines 1-7; Fig. 1). Thus, it appears the process described by the above-noted passages referred to by the Examiner focuses on the aspect of Pare, Jr. et al. of updating data between DPCs regarding to encryption, ***not operating POS terminals in one of two modes:*** *a first mode where transaction information communicated to a first server is delayed*; and *a second mode where transaction information communicated to the first server is not delayed*.

Accordingly, Applicant maintains his position that nothing in Pare, Jr. et al., discloses, teaches or suggest the two-mode operative POS terminal invention recited in independent claims 1, 17 and 30. Accordingly, these rejections are considered patentable over the cited prior art and withdrawal of the prior art rejections as to these claims is respectfully requested.

Claim 14

With respect to independent claim 14, the Examiner alleges that Pare, Jr. et al., at col. 11, lines 22-26, disclose the feature of "a server receiving an action remotely from a customer for communicating and application on a wireless transaction terminal". However, this passage states:

> "Depending on the task at hand, BIA models are either partially or fully integrated with the terminal. Partially integrated devices are physically separate from the terminal, and they include wireless and standard retail point of sale BIAs."

The BIA (biometric input apparatus) is a device which is used to transmit biometric

information (i.e., a fingerprint) to the POS-Terminal. This passage states that the BIA can be partially or fully integrated with the POS terminal. Again, Applicant does not understand how this passage in any way anticipates or makes obvious Applicant's claimed feature of a customer remotely communicating an action to a server, where the server then communicates the action to the wireless terminal. This claimed feature allows one, from a remote networked computer, to control a wireless transaction terminal, by communicating an action (e.g., terminal set-up) from the remote computer to a server via the Internet (for example). The server may then communicate the action to the wireless transaction terminal (see, for example, specification, last full paragraph, page 14).

The Examiner also point to column 42, lines 6-14 for supporting the same proposition:

> "Customer Service tasks
>
> IBD: find, activate, deactivate, remove, correct records, change PINs.
> AID: add or remove authorized individuals.
> AOD: find, add, remove, correct records.
> VAD: find, activate, deactivate, remove, correct records.
> RSD: find, add, remove, correct records.
> PFD: add, remove, correct records."

This passage of Pare, Jr., et al. is understood to be directed to DPC customer service tasks, for modifying DPC databases. Nothing in this passage appears to disclose the ability of customer remotely communicating an action with the server over the Internet so that the server communicates the action to the a wireless transaction terminal. In the claimed invention, actions such as terminal set-up, on-line activation and provisioning can be done remotely from a first computer communicating with a server, which communicates the action to the wireless terminal (*id.*).

Thus, Applicant maintains that claim 14 is distinguished over Pare, Jr. et al. and respectfully requests that this rejection be withdrawn.

Claim 35

With regard to independent claim 35, the Examiner alleges that column 23, lines 16-27 and column 58, lines 26-30 (and Fig. 1) of Pare, Jr. et al., discloses Applicant's claimed feature of providing replies for use in transaction processing to the transaction terminal prior to or during a transaction. These Pare, Jr. et al. passages state:

> "The purpose of the RPT is to allow buyers to purchase items at a store without having to use either cash, check, or a debit or credit card.
>
> The RPT uses a BIA/Retail to authorize financial transactions from a buyer to a seller. In addition to being used to accept biometric-PIN authorizations, the RPT provides standard debit and credit card scanning functions as well.
>
> Note that only the biometric-related transactions are described in detail here. It is assumed that the RPT may also consist of standard credit and debit magnetic stripe card readers, as well as optional smart card readers too. An example of a RPT is a Verifone Tranz/330."

Column 23, lines 16-27.

> RPT→ DPC <Commercial Transaction Message>
>
> DPC: validate biometric, retrieve financial account number.fwdarw.4024-2256-5521-1212
>
> DPC→ VISA <authorize 4024-2256-5521-1212 452.33 123456>

Applicant also cannot understand how either noted section discloses the features recited in claim 35. Specifically, these sections do not disclose, teach or suggest a feature for providing replies for use in transaction processing to the transaction terminal ***prior to or during a transaction***. By prior to, it is meant that the replies are downloaded prior to

operating the wireless transaction terminal/conducting a transaction (see specification, page 12, lines 23-27) or supplied by a remote server during the transaction. While one could try to argue that the above-noted passage from Pare, Jr., et al. indicates that the responses are sent from one device to another for display thereon, there is simply no disclosure that the responses are stored on the terminal of Pare, Jr., et al. prior to a transaction occurring. Even assuming this passage inherently discloses/teaches/suggests that the responses are stored on the terminal prior to the transaction, there is no disclosure, teaching or suggestion that **both** storage of the responses prior to a transaction and responses being sent from device to device for display may be done.

Moreover, there is no remaining portion of Pare, Jr. et al. which discloses or would have taught or suggested to one of skill in the art at the time the invention was made of such functionality (as claimed). As disclosed in Applicant's specification on page 12, line 20, through page 13, line 16, in one mode of operation, replies may be stored in the transaction terminal to be used in during a transaction, without the server having to send such information, while in a second mode of operation, responses are not stored locally at the POS terminal, but are sent through the network from a server.

Accordingly, Applicant maintains this he has distinguished independent claim 35 from Pare, Jr. et al., and respectfully requests that this rejection be withdrawn

Remaining Claims

The remaining pending claims are dependent on one or another of the above-noted and distinguished independent claims. Thus, these claims are patentable over the cited prior art for the same reasons. Thus, withdrawal of the prior art rejections as to the dependent claims are also respectfully requested.

Art of Record

Applicant submits that the remaining art of record does not disclose, teach or suggest the deficiencies of the cited prior art. Accordingly, Applicant respectfully submits that the claims are patentable over the art of record.

CONCLUSION

In view of the foregoing remarks, as well as the conversation between Applicant and the Examiner on June 12, 2006, Applicant respectfully submits that all issues raised in the March 14, 2006 Office Action have been addressed and request favorable reconsideration of the subject application. Applicant also respectfully requests that all of the prior art rejections issued in the outstanding Office Action be withdrawn and that the subject application be allowed. Accordingly, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Should the Examiner still be of the opinion that Pare, Jr. et al. discloses, teaches or suggests the features recited in one or more pending claims, Applicant invites the Examiner to call Applicant's below named representative directly to discuss the issues.

No fees are believed due with this response. In the event that it is determined that additional fees are due, however, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. **50-0311**, Ref. No. 28589-015 (formerly 21958-015), Customer No. **35437**.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 935-3000. All correspondence should be directed to our New York office address, which is given below.

Respectfully submitted,

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